

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

IN RE:) BANKRUPTCY CASE
)
NESTOR R. TORO, JR.,) NO.: 18-14214
LOURDES L. TORO,)
) CHAPTER 13
Debtors.)
) JUDGE: A. BENJAMIN GOLDGAR
)
)

NOTICE OF MOTION

TO: SEE ATTACHED ADDRESSES

PLEASE TAKE NOTICE THAT ON October 25, 2019 at 9:30 am, or as soon thereafter as counsel may be heard, I shall appear before the Honorable A. Benjamin Goldgar, U.S. Bankruptcy Judge, Park City Branch Court, Courtroom B, 301 S. Greenleaf Avenue, Park City, Illinois 60085, and shall then and there present the attached Motion and at which time you may appear if you so desire.

CERTIFICATION

I, the undersigned Attorney, Certify that I served a copy of this Notice to the Addresses attached by electronic notice through ECF or by depositing the same at the U.S. Mail at 1 North Dearborn, Chicago, Illinois 60602 at 5:00 P.M. on October 16, 2019, with proper postage prepaid.

McCalla Raymer Leibert Pierce, LLC
/s/Dana O'Brien

Dana O'Brien
ARDC# 6256415
1 N. Dearborn Suite 1200
Chicago, IL 60602
(312) 346-9088

This is an attempt to collect a debt and any information obtained will be used for that purpose.

NOTICE OF MOTION ADDRESSES

To Trustee:
Glenn B Stearns
801 Warrenville Road Suite 650
Lisle, IL 60532

by Electronic Notice through ECF

To U.S. Trustee:
Patrick S Layng
Office of the U.S. Trustee, Region 11
219 S Dearborn St
Room 873
Chicago, IL 60604

by Electronic Notice through ECF

To Debtor:
Nestor R. Toro, Jr.
Lourdes L. Toro
39053 N. Ogden Ln.
Beach Park, IL 60083

Served via U.S. Mail

To Attorney:
David M Siegel
David M. Siegel & Associates
790 Chaddick Drive
Wheeling, IL 60090

by Electronic Notice through ECF

McCalla Raymer Leibert Pierce, LLC
Attorney For: Creditor
1 N. Dearborn Suite 1200
Chicago, IL 60602
(312) 346-9088

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**MOTION TO MODIFY THE AUTOMATIC STAY AND MOTION TO
DISMISS**

NOW COMES M & T Bank as servicing agent for Lakeview Loan Servicing, LLC by and through its attorneys, McCalla Raymer Leibert Pierce, LLC, and requests that the Automatic Stay heretofore entered on the property located at 39053 North Ogden Lane, Beach Park, Illinois 60083 be Modified or alternatively that the above captioned Chapter 13 be dismissed, stating as follows:

1. On May 16, 2018, the above captioned Chapter 13 was filed.
2. On August 3, 2018, the above captioned Chapter 13 was confirmed.
3. M & T Bank as servicing agent for Lakeview Loan Servicing, LLC services the first mortgage lien on the property located at 39053 North Ogden Lane, Beach Park, Illinois 60083.
4. The Plan calls for the Debtors to be the disbursing agent for the post-petition mortgage payments directly to M & T Bank as servicing agent for Lakeview Loan Servicing, LLC. Current post-petition payments are \$1,817.31.
5. As of October 8, 2019, the post-petition mortgage payments are due and owing for

- August 1, 2019. The default to M & T Bank as servicing agent for Lakeview Loan Servicing, LLC is approximately \$5,387.73 through October 2019. In addition, Movant has also incurred post-petition attorney fees of \$250.00 and Proof of Claim fees of \$400.00, as disclosed on the Notice of Post-petition Mortgage Fees, Expenses, and Charges filed on July 16, 2018. Another payment will come due on November 1, 2019 in the amount of \$1,817.31.
6. Attorney's fees and costs for this motion are due in the amount of \$1,031.00.
 7. The plan is in material default.
 8. M & T Bank as servicing agent for Lakeview Loan Servicing, LLC continues to be injured each day it remains bound by the Automatic Stay.
 9. M & T Bank as servicing agent for Lakeview Loan Servicing, LLC is not adequately protected.
 10. The property located at 39053 North Ogden Lane, Beach Park, Illinois 60083 is not necessary for the Debtors' reorganization.
 11. M&T Bank services the loan on the Property referenced in this Motion. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtors obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of M & T Bank as servicing agent for Lakeview Loan Servicing, LLC. Movant, directly or through an agent, has possession of the Note. The Note is either made payable to Movant or has been duly endorsed.
 12. No cause exists to delay the enforcement and implementation of relief and Bankruptcy Rule 4001(A)(3) should be waived.

WHEREFORE, YOUR MOVANT respectfully prays that the Automatic Stay on the property located at 39053 North Ogden Lane, Beach Park, Illinois 60083, be modified and that Bankruptcy Rule 4001(a)(3) be waived as not applicable, or alternatively that the above captioned Chapter 13 be dismissed, and leave be granted to M & T Bank as servicing agent for Lakeview Loan Servicing, LLC to proceed with non-bankruptcy remedies including foreclosure, and for such other and further relief as this Honorable Court deems just.

McCalla Raymer Leibert Pierce, LLC

By: /s/Dana O'Brien

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